

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

GEIS CONSTRUCTION SOUTH, LLC,)	
)	
Claimant)	CASE NO. 2:21-CV-02407
v.)	
)	
MDC HOME IMPROVEMENTS, INC.,)	JUDGE LaSHANN DeARCY HALL
)	
Respondent)	MAGISTRATE JUDGE STEVEN
)	TISCIONE
)	
)	<u>CLAIMANT GEIS CONSTRUCTION</u>
)	<u>SOUTH, LLC'S STATUS REPORT</u>

Pursuant to the Court's Status Report Order dated September 23, 2021, Claimant Geis Construction South, LLC ("Geis" or "Claimant") submits the following status report.

On April 1, 2021, an Arbitration Panel issued an Award against MDC Home Improvements, Inc. ("MDC" or "Respondent") and in favor of Claimant. On April 30, 2021, Claimant filed its Application to Confirm Arbitration Award (ECF No. 1-1, PageID # 3 *et seq.*) ("Application").

After a private process server retained by Claimant was unsuccessful at serving Respondent, on June 7, 2021, Claimant obtained two additional addresses for Respondent through the use of a skip-trace search. On June 15, 2021, Claimant used these two new addresses, and the Application and resulting Summons were served upon Respondent by private process server at the following address: 1 Argyle Road, Plainview, NY 11803. *See* Filed Affidavit of Service (Doc. No. 11, PageID# 584); Exhibit A.

Although service upon Respondent by private process server successfully occurred on June 15, 2021, in an abundance of caution, Claimant arranged in July 2021 to have the U.S. Marshal's

office attempt to serve the Application and Summons upon Respondent pursuant to 9 U.S.C. § 9 [“[i]f the adverse party shall be a nonresident, then the notice of the application shall be served by the marshal of any district within which the adverse party may be found in like manner as other process of the court”]. To that end, Claimant obtained a reissued summons on June 24, 2021 with the updated address for Respondent.

On approximately July 21, 2021, the U.S. Marshal’s office informed Claimant’s counsel that the U.S. Marshal had 90 days from July 1, 2021 to serve the Application and it would send back proof of service to the Court after service occurred. On August 20, 2021, the U.S. Marshal’s office informed Claimant’s counsel that the Application had been assigned to a Marshal and that the Marshal was in the process of scheduling service upon Respondent. On approximately September 13, 2021, Claimant’s counsel was told by the U.S. Marshal’s office that the office had made two unsuccessful attempts to serve Respondent and would attempt service one final time.

On September 24, 2021, the U.S. Marshal’s office advised Claimant’s counsel that the third attempt for service over Respondent was also unsuccessful. Claimant’s counsel was further advised that our packet would be sent to the Court, and that the Court will either send the packet back to Claimant counsel’s office or reach out to Claimant’s counsel to request payment in order for the U.S. Marshal’s office to attempt service over Respondent once again.

Given that the U.S. Marshal’s office recently informed Claimant’s counsel that it had made its three unsuccessful attempts at serving Respondent, and subject to confirmation from the Court as to whether it will return Claimant’s packet or request payment in order for the U.S. Marshal’s office to renew its efforts to effectuate service, in either event, Claimant intends to renew its request to the U.S. Marshal’s office to attempt service upon Respondent. If necessary, Claimant will submit a new application with the U.S. Marshal’s office and issue payment of a separate set of

fees, along with requesting and obtaining a reissued summons.

Claimant will continue its diligence in attempting service upon Respondent by the U.S. Marshal's office. Once service by the U.S. Marshal's office does occur, proof of service will be filed with the Court.

Respectfully Submitted,

/s/ Christopher Nucifora

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*Counsel for Claimant Geis Construction South,
LLC*

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing was filed electronically. Notice of this filing will be sent to Respondent via regular U.S. mail and email:

MDC Home Improvements, Inc.
c/o Jaime Delahunt
1 Argyle Road
Plainview, NY 11803

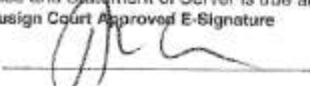
jaimemdc@gmail.com

/s/ Chris Nucifora
*One of the Attorneys for Claimant Geis Construction
South, LLC*

EXHIBIT A

Case 2:21-cv-02407-LDH-ST Document 11 Filed 06/24/21 Page 11 of 11 PageID #: 594

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AO 440 (Rev. 06/12) Summons in a Civil Action		RETURN OF SERVICE	
SERVICE OF: SUMMONS AND COMPLAINT, NOTICE OF FILING OF APPLICATION TO CONFIRM ARBITRATION AWARD, EFFECTED (1) BY ME: EXHIBITS TITLE: THOMAS ARLEO PROCESS SERVER			
		DATE: 06/15/2021 @ 8:34 AM	
CHECK ONE BOX BELOW TO INDICATE APPROPRIATE METHOD OF SERVICE: <input checked="" type="checkbox"/> Served personally upon the defendant MDC HOME IMPROVEMENTS, INC. C/O MR. JAIME DELAHUNT Place where served: 1 ARGYLE ROAD PLAINVIEW NY 11803 <input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: JAIME DELAHUNT Relationship to defendant: <u>MANAGING AGENT</u> Description of Person Accepting Service: SEX: <u>M</u> AGE: <u>40-45</u> HEIGHT: <u>5'11"-6'1"</u> WEIGHT: <u>250-275</u> SKIN: <u>WHITE</u> HAIR: <u>BROWN</u> OTHER: _____ <input checked="" type="checkbox"/> To the best of my knowledge, said person was not engaged in the U.S. Military at the time of service			
STATEMENT OF SERVER			
TRAVELS _____		SERVICES \$ _____ TOTAL \$ _____	
DECLARATION OF SERVER			
I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in this Return of Service and Statement of Server is true and correct. DocuSign Court Approved E-Signature DATE: <u>06 / 15 / 2021</u> <div style="text-align: center; margin-top: 10px;">  SIGNATURE OF <u>THOMAS ARLEO</u> L.S. GUARANTEED SUBPOENA SERVICE, INC. 2009 MORRIS AVENUE UNION, NJ 07083 </div> <div style="margin-top: 20px;"> ATTORNEY: CHRISTOPHER NUCIFORA, ESQ. PLAINTIFF: GEIS CONSTRUCTION SOUTH, LLC DEFENDANT: MDC HOME IMPROVEMENTS, INC. VENUE: DISTRICT DOCKET: 2 21 CV 02407 LDH ST COMMENT: DATE FILED: 05/04/2021 </div>			